

C. F. LINN

IBLA 80-45

Decided January 23, 1980

Appeal from decision of the California State Office, declaring the Snow White lode mining claim (CA MC 42576) abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment -- Mining Claims: Recordation

Where a mining claimant submits a copy of a notice of location in the BLM's Riverside, California, District Office, for a claim located after Oct. 21, 1976, he has not complied with 43 CFR 3833.1-2(b), even though the material was submitted in the District Office before the expiration of the 90-day deadline, as the notice has not been filed in the "proper BLM office," which is the BLM California State Office in Sacramento, as expressly provided by 43 CFR 3833.0-5(g) and 1821.2-1(d). Where the District Office forwards the information to the State Office but it does not arrive until after the 90-day deadline has passed, owing to its extremely late submission to the District Office, it is untimely, and the claim is properly declared abandoned and void under 43 CFR 3833.4(a).

APPEARANCES: C. F. Linn, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On September 6, 1979, Traverse and Carroll Linn submitted copies of a notice and other information concerning the location of

the Snow White lode mining claim with the Riverside, California, District Office, Bureau of Land Management (BLM). Although there is no transmittal memorandum or other information in the files so indicating, it is likely that the Riverside District Office forwarded this information to BLM's California State Office in Sacramento, as the documents bear the notation that they were received there on September 17, 1979.

On October 5, 1979, the State Office issued a decision declaring this claim abandoned and void because claimants had not filed a copy of the notice of location within 90 days after the date of location as required by section 314 of the Federal Land Management and Policy Act of 1976 (FLPMA), 43 U.S.C. § 314 (1976), and 43 CFR 3833.1-2(b). C. F. Linn (who we presume is Carroll Linn, one of the locators of the claim) has appealed from this decision.

[1] The information filed by the claimants indicates that the date of location of the Snow White claim is June 9, 1979. Accordingly, under 43 CFR 3833.1-2(b), its owners were required to "file" a copy of the official record of the notice of location of the claim in the proper BLM office on or before September 7, 1979, which was 90 days after the date of location. Under the regulation "file" means being received and date stamped in "the proper BLM office."

The "proper BLM office" is defined in the regulations at 43 CFR 3833.0-5(g) as the BLM office which has jurisdiction over the area in which the claim is located, as specified in 43 CFR 1821.2-1(d). The latter section states in turn that the office having jurisdiction over lands located in California is BLM's California State Office in Sacramento. Thus, under 43 CFR 3833.1-2(b), appellant was required to "file" this information in BLM's California State Office, i.e., to cause it to be received and date stamped there, on or before September 7, 1979.

Appellant submitted this information prior to this date, but with the Riverside District Office, rather than the State Office in Sacramento as expressly provided in the regulations. Accordingly, this information may not be regarded as having been "filed" with the State Office until it was actually received and date stamped there on September 17, 1979. As this was more than 90 days after the date of location, BLM properly declared the claim abandoned and void, as required by 43 CFR 3833.4(a).

It is irrelevant that the District Office might have waited some few days before forwarding the information to the State Office, as the State Office could not have received the information timely even if the District Office had acted immediately, in that it was submitted in Riverside only 1 day in advance of the date it was due in Sacramento. The District Office is without authority to accept such filings. The

need to conduct business at the land office having appropriate jurisdiction has long been recognized. Mathews v. Zane, 7 Wheat. 164, 5 U.S. 244 (1822); see Gretchen Capital, Ltd., 37 IBLA 392, 394 (1978). Thus, the burden is on the claimant to file information in the proper location in BLM or bear the risk that it will not be forwarded in time to meet deadlines.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas L. Henriques
Administrative Judge

Joan B. Thompson
Administrative Judge

